

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

Ernest Williams, TDCJ-CID #637464,
Plaintiff,

v.

Texas Board of Pardons and Paroles,
Defendant.

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C.A. NO. C-06-70


MEMORANDUM OPINION AND ORDER OF DISMISSAL

On March 2, 2006, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 6). Objections were timely filed (D.E. 8). Having reviewed *de novo* the Magistrate Judge's memorandum and recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Plaintiff argues that his suit challenges the constitutionality of the procedures used by the Texas Board of Pardons and Paroles. If the plaintiff were attempting to change the parole procedures for future prisoners (including plaintiff) through injunctive relief, then such a claim could be brought under 42 U.S.C. § 1983. *Wilkinson v. Dotson et al.*, 125 S.Ct. 1242 (2005). A close reading of his complaint reveals, however, that plaintiff is actually attempting to obtain immediate relief overturning his own, past parole hearings when his parole was denied. Such a result would mean immediate release of the prisoner into the community. Therefore, plaintiff's claims are improperly brought under § 1983 as they lie "within the core" of habeas corpus. *Id.*

Accordingly, plaintiff's § 1983 claims for declaratory judgment, injunctive relief, and damages are dismissed for failure to state a claim upon which relief can be granted. To the extent that plaintiff has brought claims that would properly be brought under a writ for habeas corpus, those claims are dismissed without prejudice. The Clerk of the Court is ordered to provide copies of this dismissal order to the parties, to the TDCJ-Office of the General Counsel, and to the District Clerk for the Eastern District of Texas, Tyler Division.

ORDERED this 24 day of March, 2006.


HAYDEN HEAD
CHIEF JUDGE